S T A T E O F N E W Y O R K

10976--A

I N A S S E M B L Y

May 5, 2010

Introduced by M. of A. GALEF -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to the disclosure of sources for political advertisements

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The election law is amended by adding a new section 14-107 to read as follows:

S 14-107. INDEPENDENT EXPENDITURE REPORTING. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) (I) "INDEPENDENT EXPENDITURE" SHALL MEAN AN EXPENDITURE MADE BY A PERSON FOR AN AUDIO OR VIDEO COMMUNICATION TO A GENERAL PUBLIC AUDIENCE VIA BROADCAST, CABLE OR SATELLITE OR A WRITTEN COMMUNICATION TO A GENERAL PUBLIC AUDIENCE VIA ADVERTISEMENTS, PAMPHLETS, CIRCULARS, FLYERS, BROCHURES, LETTERHEADS OR OTHER PRINTED MATTER AND STATEMENTS OR INFORMATION CONVEYED TO FIVE HUNDRED OR MORE MEMBERS OF A GENERAL PUBLIC AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICES WHICH: (A) EXPRESSLY ADVOCATES THE ELECTION OR DEFEAT OF A CLEARLY IDENTIFIED CANDIDATE OR THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL OR AMENDMENT TO THE CONSTITUTION OF THE STATE OF NEW YORK AND (B) SUCH CANDIDATE, THE CANDIDATE'S POLITICAL COMMITTEE OR ITS AGENTS, OR A POLITICAL COMMITTEE FORMED TO PROMOTE THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL OR ITS AGENTS, DID NOT AUTHORIZE, REQUEST, SUGGEST, FOSTER OR COOPERATE IN ANY SUCH COMMUNICATION.

(II) INDEPENDENT EXPENDITURES SHALL NOT INCLUDE:

(A) A COMMUNICATION APPEARING IN A WRITTEN NEWS STORY, COMMENTARY, OR EDITORIAL DISTRIBUTED THROUGH THE FACILITIES OF ANY BROADCASTING STATION, CABLE OR SATELLITE UNLESS SUCH PUBLICATION OR FACILITIES ARE OWNED OR CONTROLLED BY ANY POLITICAL PARTY, POLITICAL COMMITTEE OR CANDIDATE; OR

(B) A COMMUNICATION THAT CONSTITUTES A CANDIDATE DEBATE OR FORUM; OR

(C) A COMMUNICATION WHICH CONSTITUTES AN EXPENDITURE MADE BY AN ENTITY REQUIRED TO REPORT SUCH EXPENDITURE WITH A BOARD OF ELECTIONS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(B) "PERSON" SHALL MEAN A PERSON, GROUP OF PERSONS, ENTITY, ORGANIZATION OR ASSOCIATION.

(C) "TRADE ASSOCIATION" SHALL MEAN AN ENTITY HAVING AS A PRIMARY PURPOSE THE PROMOTION, ADVANCEMENT OR SELF-REGULATION OF BUSINESSES, INCLUDING BUT NOT LIMITED TO A CORPORATION, UNINCORPORATED ASSOCIATION, PARTNERSHIP, TRUST OR LIMITED LIABILITY COMPANY, WHETHER OR NOT SUCH ENTITY IS ORGANIZED FOR PROFIT, NOT-FOR-PROFIT, BUSINESS OR NON-BUSINESS PURPOSES.

2. WHENEVER ANY PERSON OR TRADE ASSOCIATION MAKES AN INDEPENDENT EXPENDITURE THAT COSTS MORE THAN ONE THOUSAND DOLLARS IN THE AGGREGATE, SUCH COMMUNICATION SHALL CLEARLY STATE WHO PAID FOR, OR OTHERWISE PUBLISHED OR DISTRIBUTED, THE COMMUNICATION AND STATE, WITH RESPECT TO COMMUNICATIONS REGARDING CANDIDATES, THAT THE COMMUNICATION IS NOT AUTHORIZED BY ANY CANDIDATE, ANY CANDIDATE'S POLITICAL COMMITTEE OR ANY OF ITS AGENTS. A KNOWING AND WILLFUL VIOLATION OF THE PROVISIONS OF THIS SUBDIVISION SHALL SUBJECT THE PERSON OR TRADE ASSOCIATION TO A CIVIL PENALTY EQUAL TO ONE THOUSAND DOLLARS OR THE COST OF THE COMMUNICATION, WHICHEVER IS GREATER, IN A SPECIAL PROCEEDING OR CIVIL ACTION BROUGHT BY THE STATE BOARD OF ELECTIONS. ANY ADVERTISEMENT PAID FOR BY A TRADE ASSOCIATION SHALL DISCLOSE THE THREE CONTRIBUTORS WHO CONTRIBUTED THE MOST MONEY IN THE AGGREGATE TO SUCH TRADE ASSOCIATION SINCE THE FIRST OF JANUARY OF THE YEAR IN WHICH THE ADVERTISEMENT IS PUBLISHED, PROVIDED FURTHER, THAT IF THE ADVERTISEMENT IS MADE WITH RESPECT TO A PRESIDENTIAL PRIMARY RACE, THEN IT SHALL DISCLOSE THE TRADE ASSOCIATION'S THREE LARGEST CONTRIBUTORS IN THE AGGREGATE SINCE THE FIRST OF JULY OF THE YEAR PRIOR TO SUCH PRIMARY.

3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH ANY DISTRICT ATTORNEY IN THE PROSECUTION OF ANY OFFENSES UNDER THIS SECTION RELATING TO DECEPTIVE PRACTICES AS WELL AS ANY OFFENSES ARISING OUT OF SUCH PROSECUTION.

S 2. This act shall take effect immediately.